



**MAILED**

**FEB 28 2011**

**OFFICE OF PETITIONS**

FITZPATRICK CELLA HARPER & SCINTO  
1290 Avenue of the Americas  
NEW YORK, NY 10104-3800

In re Application of Ledoussal et al.	:	
Application No. 10/085,786	:	Decision on Petition
Filing Date: February 28, 2002	:	
Attorney Docket No. 02911.012020.3	:	

This is a decision on the petition under 37 CFR 1.137(b), filed October 19, 2010, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. No further petition fee is required for the request. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)."

Facts:

The instant application was filed February 28, 2002.

The Proctor & Gamble Company ("Proctor & Gamble") filed the application on February 28, 2002. At that time, Proctor & Gamble owned all rights to the application.

The Office mailed a non-final Office action on October 1, 2002. The non-final Office action set a three-month period for reply. Proctor & Gamble did not file a reply to the non-final Office or request an extension of time. As a result, the application became abandoned on January 3, 2003.

On March 18, 2003, Proctor & Gamble filed Application No. 10/392,476, which is a continuation application claiming priority to the instant application. Application No. 10/392,476 issued as a patent on February 1, 2005.

The Office mailed a Notice of Abandonment on April 17, 2003.

Proctor & Gamble assigned the patent to the Warner Chilcott Company, LLC ("Warner") on October 30, 2009.

A power of attorney was filed by Warner on May 25, 2010, and the current representatives of record are the practitioners associated with Customer no. 05514.

The instant petition was filed October 19, 2010. The petition requests the Office revive the application for copendency with Application No. 10/392,476.

The petition is accompanied by a payment of \$1,110 for a three-month extension of time.

The petition is accompanied by the required petition fee of \$1,620.

The petition states,

The entire delay in filing the required petition to extend the time for response to the Office action until the filing of a grantable petition under 37 C.F.R. § 1.137(b) was unintentional.

#### Discussion

37 CFR 1.137(b)(3) states, "The Director may require additional information where there is a question whether the delay was unintentional." Therefore, the Office has the discretion to require additional information when a petition is filed under 37 CFR 1.137(b).

The petition was filed almost eight years after the application became abandoned. Proctor & Gamble owned the application at the time the application became abandoned until late 2009. The petition is signed by Attorney Raymond Mandra, who does not appear to have firsthand or direct knowledge of the facts and circumstances surrounding the entire period of abandonment.

In view of the facts above, the Office is requiring additional information concerning the abandonment of the application. Specifically, the Office requests the submission of a statement by a party with firsthand or direct knowledge of the facts and circumstances surrounding the period of abandonment prior to Warner obtaining ownership of the application.

As a courtesy, the Office notes both the instant application and Application No. 10/392,476 were filed by Attorney David Upite. Petitioner may wish to contact Attorney Upite concerning the information requested above. A possible telephone number for Attorney Upite is 513-983-7598.

37 CFR 1.137(b)(3) requires "a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) [was] unintentional." The statement of unintentional language in the petition varies from the language set forth in 37 CFR 1.137(b)(3). The Office requests any renewed petition state "The entire delay in filing the required reply from the due date for the reply until the filing the instant petition pursuant to 37 CFR 1.137(b) was unintentional."

The petition includes a payment of \$1,110 for a three-month extension of time. Payment for an extension of time is unnecessary when reviving an application. Therefore, the \$1,110 has been credited back to Deposit Account No. 50-3939.

Further correspondence with respect to this matter may be submitted as follows:

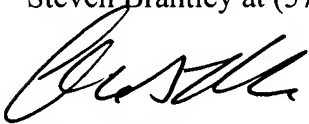
By Internet: A request for reconsideration may be filed electronically using EFS Web.<sup>1</sup>  
Document Code "PET.OP" should be used if the request is filed electronically.

By mail: Mail Stop Petition  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

By facsimile: (571) 273-8300  
Attn: Office of Petitions

By hand: U.S. Patent and Trademark Office  
Customer Service Window  
Randolph Building  
401 Dulany Street  
Alexandria, VA 22314

Telephone inquiries regarding this communication should be directed to Petitions Attorney  
Steven Brantley at (571) 272-3203.



Charles Steven Brantley  
Senior Petitions Attorney  
Office of Petitions

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<sup>1</sup> General Information concerning EFS Web can be found at <http://www.uspto.gov/patents/process/file/efs/index.jsp>.